

App. No. 09/980925
Office Action Dated December 29, 2004

REMARKS

Reconsideration is respectfully requested in view of the above amendments and following remarks. Claims 4, 12, 35 and 41-49 have been canceled without prejudice or disclaimer. Claims 1, 2, 6, 7, 15, 16, 22, 23, 32, 34, 36-38 and 40 have been amended editorially. No new matter has been added. Claims 1, 2, 6, 7, 9, 15, 16, 22, 23, 32, 34, 36-38 and 40 are pending.

The Office Action notes claims 3, 5, 8, 10-11, 13-14, 17, 19-21, 24-31, 33, 39 and 41-49 are withdrawn.

The drawings are objected to under 37 CFR 1.83(a). Claims 1, 2, 4, 6-7, 9, 12, 15-16, 18, 22, 23, 32, 34-38 and 40 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 2, 6, 7, 12, 15, 16, 18, 22, 23, 32, 34-38 and 40 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kuhn et al. (US 5,555,982). Claims 1, 2, 4 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alain et al. (FR 2778635). Applicant respectfully traverses all of the objections and rejections.

Drawings Objections/ Election/Restriction

The Examiner has requested further election of a single disclosed species, Group (a) the container in Figure 4; Group (b) the container in Figures 5-6 (namely the blanks shown in Figures 1-2). Applicant respectfully traverses the restriction and elects Group (b). Claims 1, 2, 6, 7, 9, 12, 15, 16, 18, 22, 23, 32, 34, 36-38 and 40 are readable on the elected species.

The drawings are objected to under 37 CFR 1.83(a). The Office Action states the drawings must show every features of the invention specified in the claims. In particular, the Office Action states the container formed by the blank in Figure 4 must be shown along with the functions of separating the container must be showing or the feature(s) canceled from the claim(s). Applicant respectfully traverses this objection noting the election of Group (b). Furthermore, withdrawal of this objection is respectfully requested in view of the election of Group (b) drawn to Figures 5-6.

App. No. 09/980925
Office Action Dated December 29, 2004

Claim rejections - 35 U.S.C. § 112

Claims 1, 2, 4, 6-7, 9, 12, 15-16, 18, 22, 23, 32, 34-38 and 40 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Office Action objects to the phrase "said first wall" and "and in that one or the other sidewalls" in claim 1 as having insufficient antecedent basis and as confusing. Claim 1 has been amended to recite "the case having at least four side walls, wherein one of the side walls is a first transverse side wall, and one of the other side walls is a second transverse side wall opposite the first transverse side wall". Additionally, claim 1 has been amended to recite "a first transverse side wall or other side walls of the tray" and "a first transverse side wall or other side walls of the lid".

The phrase "the partially precut, upper connecting line" in claim 2 is objected to as having insufficient antecedent basis. Applicants note it appears this objection is referring to claim 4. Claim 4 has been canceled. Furthermore, the limitation has been incorporated into claim 1 and recites "a partially precut upper connecting line".

The phrase "the upper connecting line" in claim 6 is objected to as having insufficient antecedent basis. As noted above, claim 1 was amended to recite "a partially precut upper connecting line". Claim 6 depends from claim 1 and has also been amended to recite "the partially precut upper connecting line".

The Office Action also states it is unclear whether the precut in claim 4 is readable on the elected species. As noted above, claim 4 has been canceled and the claim 1 has been amended to recite "a partially precut upper connecting line".

The phrase "fascia" in claim 4 is objected to as being unclear. As noted above, claim 4 has been canceled. Furthermore, claim 1 has been amended to recite "a partially precut upper connecting line is situated on said first transverse side wall so as to leave an upper tongue

App. No. 09/980925
Office Action Dated December 29, 2004

attached to the lid following tearing off", as supported, for example, by at least page 23, lines 13-14, page 25, lines 20-21 of the specification and Figures 1-2 and 5-6.

The phrase "partially precut section(s) of leaves" in claim 12 is objected to as having insufficient antecedent basis. In addition, the parenthesis is also objected to as rendering the claims indefinite. Also, the phrase "closed line" is objected to as being confusing. Claim 12 has been canceled.

The parenthesis in claim 15 is objected to as rendering the claims indefinite. In addition the phrase "or.. on the other hand" is objected to as being confusing. Claim 15 has been amended to remove the parenthesis and to delete --on the one hand, and by gluing lines, on the other hand--.

The phrases "leaf" and "the rest of the assembly" in claim 18 are objected to as having insufficient antecedent basis. The phrases "transverse flap", "the central leaf", "precut bottom portion" are also objected to as being unclear. Claim 18 has been withdrawn.

The phrase "further comprising" in claims 22 and 35 are objected to as being confusing. Claim 22 has been amended to delete --further comprising-- and claim 35 has been canceled.

The phrase "leaf or panel" in claim 22 is objected to as being confusing. Claim 22 has been amended to delete --or panel--. The phrase "the central leaf" in claim 22 is objected to as having insufficient antecedent basis. In addition, the phrase "means of at least" is objected to as not being a proper 112, 6th paragraph recitation. Also, the phrase "the shapes" is objected to as being unclear. The phrases "a second transverse flap or at least one side leaf" and "a first transverse flap" is objected to as being a double inclusion. Additionally, the Office Action states claim 22 is objected to as being confusing with respect to the various cut lines and leaves or panels. Claim 22 has been amended.

The phrase "first portions" in claim 32 is objected to as having insufficient antecedent basis. Claim 32 has been amended.

App. No. 09/980925

Office Action Dated December 29, 2004

Claim 35 is objected to for reciting elements previously recited in claim 22. As noted above claim 35 has been canceled.

In light of the amendments made above and the remarks offered herein, Applicants respectfully request withdrawal of this rejection.

Claim rejections - 35 U.S.C. § 102

Kuhn et al.

Claims 1, 2, 6, 7, 12, 15, 16, 18, 22, 23, 32, 34-38 and 40 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kuhn et al. (US 5,555,982). Applicant respectfully traverses this rejection.

Claim 1 recites a packaging case in two sections, comprising two corrugated board sheet elements. Claim 1 also recites the first transverse side wall is joined to the case by partially precut connecting lines allowing the first transverse side wall to be manually torn off by the user from the case. Claim 1 further recites a partially precut upper connecting line situated on the first transverse side wall so as to leave an upper tongue attached to the lid following tearing off.

Kuhn does not teach a packaging case in two sections, comprising two shapes made of corrugated board sheet. Moreover, Kuhn does not teach that the first transverse side wall is joined to the case by partially precut connecting lines allowing the first transverse side wall to be manually torn off by the user from the case. Furthermore, Kuhn does not teach a partially precut upper connecting line situated on the first transverse side wall so as to leave an upper tongue attached to the lid following tearing off.

The same distinctions also exist between pending claim 22 and Kuhn.

Therefore, as the recited structure is not taught by Kuhn, Kuhn does not anticipate the pending claims. Further, as Kuhn does not teach the recited structure, there is no suggestion or teaching in Kuhn which would otherwise obviate the claimed invention.

App. No. 09/980925
Office Action Dated December 29, 2004

Alain et al.

Claims 1, 2, 4 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alain et al. (FR 2778635). Applicant respectfully traverses this rejection.

Claim 1 recites a packaging case in two sections. Claim 1 also recites the first transverse side wall is joined to the case by partially precut connecting lines allowing the first transverse side wall to be manually torn off by the user from the case. Claim 1 further recites a partially precut upper connecting line situated on the first transverse side wall so as to leave an upper tongue attached to the lid following tearing off.

Alain does not teach a packaging case in two sections. Moreover, Alain does not teach the first transverse side wall is joined to the case by partially precut connecting lines allowing the first transverse side wall to be manually torn off from the case by the user. Furthermore, Alain does not teach a partially precut upper connecting line situated on the first transverse side wall so as to leave an upper tongue attached to the lid following tearing off.

Therefore, as the recited structure is not taught by Alain, Alain does not anticipate the pending claims. As Alain does not teach the recited structure, there is also no suggestion or teaching which would obviate the claimed invention.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, John J. Gresens, Reg. No. 33,112, at (612)371.5265.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

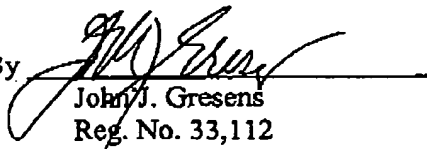
23552

PATENT TRADEMARK OFFICE

Dated: June 29, 2005

JJG:mmm

By


John J. Gresens
Reg. No. 33,112